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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,709	12/04/2003	Kazuhiro Matsubayashi	00862.023341	7048
5514 7590 03/15/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
NGUYEN, LE V				
ART UNIT		PAPER NUMBER		
2174				
MAIL DATE		DELIVERY MODE		
03/15/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/726,709

Applicant(s)

MATSUBAYASHI ET AL.

Examiner

LE NGUYEN

Art Unit

2174

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.5.6.11 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1.5.6.11 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/06)
Paper No(s)/Mail Date 12/23/09, 12/7/09 and 9/16/09.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is responsive to an amendment filed 12/7/09.
2. Claims 1, 5, 6, 11 and 15 are pending in this application; and, claims 1, 5, 11 and 15 are independent claims. Claims 1, 5, 11 and 15 have been amended; and claims 2-4, 7-10, 12-14 and 16-43 have been cancelled. This action is made Final

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews et al. ("Mathews", US 6,025,837) in view of Maxon et al. ("Maxon", US 6,930,730 B2)

As per claim 11, Mathews teaches an information processing method of a first step of receiving digital broadcasting data described in a markup language and including first hierarchical level elements delimited by predetermined tags and second hierarchical level elements which belong to a range or group of elements delimited by the predetermined tags (col. 3, line 7 – col. 5, line 10) comprising: a displaying step of displaying the elements included in the received digital data on a display device (figs. 1

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and 3; e.g., elements 28 and 64 receives the digital data and displays it on interfaces 24 and 66), a second receiving step of receiving key-input first or second signals from a remote controller (figs. 1 and 3; e.g., elements 30, 70 and 72), a switching step of switching a selection of an element between the first hierarchical level elements or between the second hierarchical level elements when the first signal is received in the receiving step, and switching a selection between the first and second hierarchical level elements when the second signal is received in the receiving step and a selected element display step of displaying the selected element on the display device (figs. 1-3, 5 and 7-8; col. 4, line 22 – col. 5, line 10; col. 9 line 35 – col. 10, line 4; hyperlinks stored in 22 are integrated as part of a hierarchical grid are provided for selection and viewing). Mathews does not explicitly disclose highlighting a selected element and non-selected element in the same level where they are highlighted in a distinguishable manner. Maxon teaches highlighting a selected element and non-selected element in the same level where they are highlighted in a distinguishable manner (col. 5, lines 26-51). It would have been obvious to an artisan at the time of the invention to incorporate the method of Maxon to the method of Mathews so that users can differentiate between selectable, non-selectable and selected items, especially in view of KSR, 127 S. Ct. 1727 at 1742, 82 USPQ2d at 1397 (2007).

Claim 1 is similar in scope to claim 11 and is therefore rejected under similar rationale.

5. Claims 5, 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews et al. ("Mathews", US 6,025,837).

As per claim 5 and 15, Mathews teaches an information processing method and apparatus for receiving digital broadcasting data described in a markup language and including first hierarchical level elements delimited by predetermined tags and second hierarchical level elements which belong to a range or group of elements delimited by the predetermined tags, and displaying the received data on a display device comprising an identification step of identifying an information amount contained in each of the elements wherein the information amount contained in each element is at least one of an area size in which the element is displayed, the number of characters contained in the element, and the number of bytes of data contained in the element (figs. 1, 3, 5 and 7; col. 4, line 22 – col. 5, line 10; tags used to render content as well as specify hyperlinks wherein content can be in the form of characters/text, images, etc.), a receiving step of receiving key-input first or second signals from a remote controller (fig. 1; e.g., element 30), a switching step of switching selection between the first hierarchical level elements or between the second hierarchical level elements on the basis of the identified information amount when the signal is received in the receiving step and switching a selection of an element between the first and second hierarchical level elements when the second signal is received and a selected element display step of displaying the selected element on the display device (figs. 1-3, 5 and 7-8; col. 4, line 22 – col. 5, line 10; col. 9 line 35 – col. 10, line 4; hyperlinks stored in 22 are integrated as part of a hierarchical grid are provided for selection and viewing). Mathews does not explicitly disclose an input signal in turn by an arrow key operation; however, it has been a practice for many years to use a signal input in turn by an arrow key operation

(e.g., see direction pad of fig. 2 in Tomsen et al. , US 2002/0147984 A1). In view of KSR, 127 S. Ct. 1727 at 1742, 82 USPQ2d at 1397 (2007), it would have been obvious to an artisan at the time of the invention to incorporate such well known practices to the method of Mathews in order to provide users with navigational capabilities as an implementation preference, especially in .

As per claim 6, the modified Mathews teaches an information processing method and an information processing method of receiving data described in a markup language and including first hierarchical level elements delimited by predetermined tags and second hierarchical level elements which belong to a range delimited by the predetermined tags, and displaying the received data on a display device wherein the plurality of elements delimited by predetermined tags include first hierarchical level elements delimited by predetermined tags and second hierarchical level elements which belong to a range delimited by the predetermined tags and the switching unit switches a selection between the first hierarchical level elements or between the second hierarchical level elements which belong to a range delimited by the predetermined tags when the first signal is received, and switching a selection of an element between the first and second hierarchical level elements when the second receiving unit receives a second signal (Mathews: col. 4, line 22 – col. 5, line 10; based on user selection).

Response to Arguments

6. Applicant's arguments with respect to claims 1, 5, 11 and 15 have been considered but are moot in view of the new ground(s) of rejection, except for the following: Mathews is not seen to teach the features of the identifying and switching unit/step. The Office disagrees for the following reasons: As clarified in KSR (127 S. Ct. 1727 at 1742, 82 USPQ2d at 1397 (2007)), it is now apparent that "obvious to try" may be an appropriate test in more situations than previously contemplated. When there is motivation: "...to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under §103". Since it has been a practice for many years to use a signal input in turn by an arrow key operation (e.g., see direction pad of fig. 2 in Tomsen et al., US 2002/0147984 A1), it would have been obvious to an artisan at the time of the invention to incorporate such well known practices to the method of Mathews' step of identifying an information amount contained in each of the elements (col. 3, line 7 – col. 5, line 10), a switching step of switching selection between the first hierarchical level elements or between the second hierarchical level elements on the basis of the identified information amount when the signal is received in the receiving step and switching a selection of an element between the first and second hierarchical level elements when the second signal is received and a selected element display step of displaying the selected element on the

display device (figs. 1-3, 5 and 7-8; col. 4, line 22 – col. 5, line 10; col. 9 line 35 – col. 10, line 4; hyperlinks stored in 22 are integrated as part of a hierarchical grid are provided for selection and viewing) in order to provide users with navigational capabilities as an implementation preference, especially in view of KSR.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Laura Lemay, Teach Yourself Web Publishing with HTML 4 in a Week, 1997, Sams Net, Fourth Edition, pp 342-356

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquires

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is **(571) 272-4068**. The examiner can normally be reached on Monday - Friday from 7:00 am to 3:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow, can be reached at (571) 272-7767.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lvn
Patent Examiner
February 21, 2010

/DENNIS-DOON CHOW/
Supervisory Patent Examiner, Art Unit 2174